IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No.123 of 2001

Date of decision: July 30, 2010

Raj Singh

.. Petitioner

Vs.

State of Punjab

.. Respondent

Coram: Hon'ble Mr. Justice A.N. Jindal

Present: Ms. Meenakshi Poswal, Advocate Amicus Curiae
for the petitioner.
Mr. Amit Chaudhary, AAG, Punjab
for the respondent.

A.N. Jindal, J

Vide judgment dated 13.7.2000 passed by the learned Additional Sessions Judge, Amritsar, whereby appeal preferred by fourteen accused was dismissed and the appeal filed by Ajit Singh was accepted. However, the concern is with regard to the revision petition preferred by Raj Singh (herein referred as 'the petitioner') who was convicted by both the courts below and sentenced under Sections 148/323/324/325/326 read with Section 149 IPC and sentenced as under :-

U/s 148, 323/149 IPC	:	Rigorous imprisonment for six months on both counts.
U/s 326 r/w 149 IPC	:	Rigorous imprisonment for two years with fine of Rs.500/-.
U/s 324/325 r/w 149 IPC:		Rigorous imprisonment for one year on both counts.

The brief facts as unfolded during trial are that Kashmir Singh complainant (herein referred as 'the complainant') in his statement Ex.PA, on the basis of which FIR Ex.PW10/B was registered, disclosed that on 25.10.1993, at about 8.00 p.m. he along with his brother Bhag Singh, Balbir Singh, Chanan Singh, Partap Singh, Raj Singh, Harpal Singh, Suba Singh were talking with each other in their house regarding execution of the Will pertaining to the land. In the meantime, accused Sucha Singh and Mangal

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Singh armed with dangs (sticks), Charan Singh, Tarsem Singh and Tara Singh armed with Sua, Kulwant Singh and Gurdial Singh armed with Barcha(s), Sarwan Singh, Rasal Singh and Kulbir Singh armed with Kirpan, Karaj Singh, Kashmir Singh, Raj Singh, Ajit Singh and Jeon Singh armed with barchhi(s) came in front of their house and started abusing Suba Singh. Father of the complainant tried to prevent them from abusing, at which, Ajit Singh raised lalkara to teach the complainant party a lesson for blocking the water. In the meantime, the complainant came out side the house. Chanan Singh inflicted a sua blow on the left arm of the complainant, Kulwant Singh inflicted a blow on his nose whereupon the complainant fell down. Tarsem Singh inflicted sua blow on the backside of the head of the complainant, Sucha Singh and Mangal Singh inflicted dang blow to the complainant on his chest and shoulder. On raising hue and cry, his associates came out of the house to whom the accused inflicted blows with their respective weapons. They were shifted to the hospital. On the statement of the complainant Ex.PA, FIR Ex.PW10/B was registered. The investigation commenced. The Investigating Officer reached the place of incident, prepared the rough site plan Ex.PW10/C, took the clothes of the injured into possession, arrested the accused persons, collected the medicolegal reports of the injured, recovered weapons of offence and on completion of the investigation prepared the report under Section 173 Cr.P.C.

The accused were charged under Sections 148, 326, 326 read with Section 149 IPC, 325 read with Section 149 IPC, 324, 324 read with Section 149 IPC, 323 and 323 read with Section 149 IPC, to which they pleaded not guilty and claimed trial.

In order to seek verdict of the Court against the accused, the prosecution examined Kashmir Singh (PW1), Chanan Singh (PW2), Bhag Singh (PW3), Suba Singh (PW4), Raj Singh (PW5), Partap Singh (PW6), Harpal Singh (PW7), Balbir Singh (PW8), Dr. Sham Lal Gupta (PW9) and SI Mohinder Singh (PW10).

When examined under Section 313 Cr.P.C. the accused denied all the incriminating circumstances appearing against them and pleaded their false implication in the case.

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All the accused in their statements respectively set up the different pleas, but the same need not to be discussed as the petitions filed by the other accused persons are not before me. However, Raj Singh set up the plea that he has been posted in the army and was falsely implicated in the case. In defence they examined Kehar Singh (DW1).

The trial ended in conviction of all the accused. However, during appeal, except the appeal filed by Ajit Singh, all other appeals were dismissed.

Arguments heard. Record perused.

Before I proceed to discuss the other aspects of the case, I need to mention that there are eight injured in the case. Dr. Sham Lal Gupta (PW9) who examined the injured Kashmir Singh on 25.10.1993 at about 11.00 p.m. observed the following injuries on his person :-

1. Incised punctured wound 1.5 cms x .05 cm x bone deep on left forearm middle part lateral aspect clotted blood and slightly bloody present. Underlying bone was fractured.
2. Incised punctured wound 1.5 cms x 0.5 cms x bone deep on bridge of nose, clotted blood was present. Advised x-ray examination.
3. Incised punctured wound 2 cms x 0.75 cms x muscle deep with swelling on the left occipital region of scalp. Clotted blood was present. Advised x-ray examination.
4. Reddish contusion 8 cms x 2 cms on left thigh outer aspect middle part.
5. Reddish contusion 12 cms x 2 cms on right side back chest middle part.
6. Reddish contusion 30 cms x 2 cms left side obliquely placed back of chest middle part.
7. Reddish contusion 9 cms x 3 cms left side of chest lower part lateral aspect. Advised x-ray examination.

Injury No.3 was found to be caused with sharp edged weapon. He proved the MLR Ex.PB.

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On the same day, at about 11.20 p.m., he examined Bhag Singh injured and found the following injuries on his person :-

1. Incised punctured wound 2 cms x 1.75 cms deep to joint proximal inter phalangal joint of right thumb dislocated on palmer aspect. Clotted blood was present. Movement was restricted.
2. Incised wound 3 cms x 1 cm x muscle deep on right wrist joint outer aspect interior aspect. Clotted blood was present.
3. Reddish contusion 4 cms x 2 cms right forearm middle part.

Injuries No.1 and 2 on his person were found to have been caused with the sharp pointed weapon. He proved the MLR Ex.PC.

On the same day, at about 11.30 p.m., he examined Suba Singh and found the following injuries on his person :-

1. Incised punctured wound 2 cms x 0.5 cms x depth not probed on right side chest. 6 cms from right nipple clotted blood was present. X-ray advised.
2. Incised punctured wound 1.5 cms x 1 cm x depth not probed on left side of chest upper part 7 cms below of left clavicle. Clotted blood was present. X-ray advised.
3. Incised wound 1.5 cms x 0.5 cms x muscle deep on right back lower chest.
4. An abrasion 3.5 cms x ¼ cm on left upper arm middle part.
5. Reddish contusion 6 cms x 4 cms on left deltoid region.

Injuries No.1 1 to 3 were found to be the result of sharp pointed weapon. However, all the injuries were simple in nature.

On the same day, at about 11.50 p.m. he examined Balbir Singh and found the following injuries on his person :-

1. Incised punctured wound 3 cms x 1.4 cms x depth not probed just below left nipple. Clotted blood was present. Advised x-ray examination.

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2. Incised punctured wound 1.25 cm x 0.5 cms x depth not probed on left side of chest 4 cms above left nipple. Advised x-ray examination.

Both the injuries were the result of sharp pointed weapon. He proved his MLR Ex.PE. However, both the injuries were found to be simple in nature.

On the next day i.e. 26.10.1993, at about 12.10 a.m. he examined Partap Singh and found the following injuries on his person :-

1. Lacerated wound 1 cm x 0.5 cm x muscle deep on left thumb. Posterior aspect middle part.
2. Incised punctured wound 2 cms x 1 cm depth not probed on left side of abdomen middle part interior aspect. Advised x-ray examination.

The injury No.1 was found to be the result of blunt weapon and the injury No.2 was the result of sharp pointed weapon. However, both the injuries were found to be simple in nature.

On the same day, at about 12.30 a.m. he examined Chanan Singh and found the following injuries on his person :-

1. Incised punctured wound 2 cms x 1 cm into depth not probed on right side of upper abdomen 1 cm lateral to medial plan. Advised x-ray.
2. Incised punctured wound 2.5 cms x 1 cm x depth not probed on interior axillary fold on left axilla. Clotted blood was present. Advised x-ray examination.
3. Incised punctured wound 2 cms x 0.75 cms x depth not probed on left side of neck. Advised x-ray examination.
4. Incised wound 3 cms x 1 cm muscle deep 2.5 cms from midline left side parietal region.

Injuries No.1 to 3 were found to have been caused with sharp pointed weapon. However, the injuries were found to be simple in nature. He proved the MLR Ex.PG.

On the same day, at about 12.45 a.m. he examined Harpal Singh and found the following injuries on his person :-

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1. Incised punctured wound 2 cms x 0.5 cms x muscle deep middle of chest anterior aspect.
2. Diffused swelling 5 cms x 4 cms on right wrist joint. Posterior aspect. All movements were restricted. X-ray examination was advised.

The injury No.1 was the result of sharp pointed weapon and the injury No.2 was caused with blunt weapon. He proved his MLR Ex.PH.

On the same day, at about 1.00 a.m. he examined Raj Singh and found the following injuries on his person :-

1. Incised wound 2.5 cms x 1 cm x muscle deep on right frontal regional of scalp.
2. Incised punctured wound 2 cms x 1 cm x depth not probed on left chest upper part. X-ray was advised.

The injury No.2 was found to be the result of sharp pointed weapon and the injury No.1 was caused with sharp edged weapon. He proved his MLR Ex.PJ.

The medical evidence stands corroborated by the ocular version as given by the injured Kashmir Singh (PW1), Chanan Singh (PW2), Raj Singh (PW5), Partap Singh (PW6), Harpal Singh (PW7) and Balbir Singh (PW8). They being the stamped witnesses were, in all probabilities, present at the time of occurrence. Their injuries cannot be stated to be self suffered. They have duly explained the injuries as caused by the accused. Chanan Singh (PW2) has specifically stated that when he tried to intervene, Kulbir Singh alias Kuldip Singh inflicted kirpan blow which hit on his head, Raj Singh inflicted barchhi blow on his stomach, Tarsem Singh inflicted sua blow on his left side of the chest and Tara Singh inflicted sua blow on his neck. Bhag Singh (PW3) has also corroborated his testimony while stating that Sucha Singh inflicted dang blow which hit on his right arm, Rasal Singh inflicted kirpan blow on his right wrist and another blow on his right thumb. Similarly, the other witnesses have deposed in the same terms. Balbir Singh (PW8) has also deposed regarding the injuries given by Gurdial Singh while stating that he inflicted a barchhi blow which hit him on the left side of his chest. barchhi is a sharp pointed weapon. The doctor has duly corroborated his statement while stating that the injuries on the

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person of the injured were the result of sharp pointed weapon. Both the courts below have duly appreciated the evidence. Now I do not find any necessity to re-appreciate the same. There is sufficient ocular as well as other evidence on the record to prove the complicity of the petitioner and no probable defence has come to the surface in order to establish that Raj Singh was not present at the time of occurrence. The scope of interference at the revisional stage is very limited in nature. It has been observed by the Apex Court in case ***Duli Chand vs. Delhi Administration, AIR 1975 SC 1960*** that the jurisdiction of the High Court in a criminal revision application is severely restricted and it cannot embark upon a re-appreciation of evidence. Further, on the issue, it held as under :-

> *"Now, it is obvious that the question whether the appellant was guilty of negligence in driving the bus and the death of the deceased was caused on account of his negligent driving is a question of fact which depends, for its determination, on an appreciation of the evidence. Both the learned Magistrate trying the case at the original stage and the learned Additional Sessions Judge hearing the appeal arrived, on an assessment of the evidence, at a concurrent finding of fact that the death of the deceased was caused by negligent driving of the bus by the appellant. The High Court in revision was exercising supervisory jurisdiction of a restricted nature and, therefore, it would have been justified in refusing to re-appreciate the evidence for the purposes of determining whether the concurrent finding of fact reached by the learned Magistrate and the learned Additional Sessions Judge was correct."*

Similarly, while discussing the scope of revision, the Apex Court in case ***State of Kerala vs. Puttumana Illath Jathavedan Namboodiri, AIR 1999 SC 981*** held as under :-

> *"Having examined the impugned judgment of the High Court and bearing in mind the contentions raised by the learned*

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counsel for the parties, we have no hesitation to come to the conclusion that in the case in hand, the High Court has exceeded its revisional jurisdiction. In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of Supervisory Jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an Appellate Court nor can it be treated even as a second Appellate Jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to re-appreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice."

In any case, the re-appreciation of the evidence at the revisional stage is not permissible and the power of this Court to interfere at such a stage is very limited. It was so observed in case ***State of Maharashtra vs. Sanjay Mangesh Poyarekar 2008 (4) RCR (Crl.) 555.***

Similarly, the Apex Court in ***Bindeshwari Prasad Singh alias B.P. Singh and others vs. State of Bihar (Now Jharkhand) and another, AIR 2002 SC 2907*** observed that in the absence of any legal infirmity either in the procedure or in the conduct of the trial, there is no justification for the High Court to interfere in exercise of its revisional jurisdiction.

The records of the instant case transpire that the courts below have returned a finding of fact on proper appreciation of the evidence and the impugned judgment sans any perversity, irregularity or illegality. The sentence awarded commensurates to the gravity of the offence committed. Thus, there is no ground to interfere in the impugned judgments.

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Resultantly, finding no merit in the petition the same is dismissed.

Copy of the judgment be sent to the learned Chief Judicial Magistrate, Amritsar for compliance.

Ms. Meenakshi Poswal, Advocate Amicus Curiae may claim remuneration from the Competent Authority as per rules.

July 30, 2010 **(A.N. Jindal)**
deepak **Judge**